

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

OWNERS INSURANCE,  
COMPANY,

Plaintiff,

-vs-

CA NO: 304-22125-10

**ORDER**

BEN BRYSON, FRED GARBADE,  
D/B/A GREENER IMAGE,

Defendants.

This is a declaratory judgment action filed pursuant to Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2201 by the plaintiff to determine the relative rights, duties and obligations of the parties hereto under the terms and conditions of an insurance policy. The insurance policy at issue was issued by the plaintiff on or about September 19, 2001 to the defendant Fred Garbade d/b/a Greener Image and provided various insurance coverages. Defendant Ben Bryson has made claims against defendant Garbade in a state court lawsuit and he seeks coverage for these claims from defendant Garbade's insurance policy. On September 23, 2005, the plaintiff moved for summary judgment against defendant Ben Bryson.<sup>1</sup> Defendant Bryson is proceeding *pro se*.

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<sup>1</sup>In a consent order issued November 15, 2004, defendant Fred Garbade d/b/a Greener Image, agreed not to contest the allegations of the complaint. Under the terms of the consent order, Garbade agreed with the plaintiff's position that Bryson's claims against Garbade in his state court lawsuit are not covered under the insurance policy.

Pursuant to the Local Rules of this court, this matter was referred to United States Magistrate Judge Bristow Marchant for review. The Court notes that a Roseboro order dated October 25, 2005 was sent advising defendant Bryson of the importance of a motion for summary judgment and of the need for him to file a response. However, no response was filed.

Thereafter on June 22, 2006, the Magistrate Judge issued his Report and Recommendation. In his report, the Magistrate Judge recommends that the Court grant the plaintiff's motion for summary judgment. The Court notes that another Roseboro order was issued on June 22, 2006. This order advised defendant Bryson of his right to file objections to the Magistrate Judge's Report and Recommendation and the possible serious consequences if he failed to do so. Defendant Bryson has not objected to the recommendation.

As to his findings on dispositive matters, the Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. See Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Recommendation to which specific objection is made.

Here, defendant Bryson has not filed objections to the Report and Recommendation. The Court is aware that defendant Bryson is *pro se* and has carefully reviewed the record before it. Upon review, the Court approves the report of the Magistrate Judge. For the reasons set forth in the report of the Magistrate Judge, the plaintiff's motion for summary judgment is GRANTED.

IT IS SO ORDERED.

s/MATTHEW J. PERRY, JR.  
SENIOR UNITED STATES DISTRICT JUDGE

**Columbia, South Carolina**  
**September 28, 2006.**